ELECTRONIC FRONTIER FOUNDATION EFF

January 23, 2023

SENT VIA EMAIL

Patrick Trainor, Esq.
Law Office of Patrick Trainor, Esq., LLC
19 Union Avenue, Ste 201
Rutherford, NJ 07070
Phone: (201) 777-3327
Email: pt@ptesq.com

Counsel for Daniel D'Ambly

>   Re: *In re subpoena to Cloudflare, Inc.*, No. 3:23-mc-80005-AGT

Dear Mr. Trainor,

Please find enclosed the Court's order, issued on January 23, 2023 in the above referenced case, that your client, Daniel D'Ambly, file any opposition to our client J. Doe's motion to quash by February 6, 2023. The Court also ordered your client to consent or decline to magistrate judge jurisdiction by February 6, 2023. A copy of the order is attached as Exhibit A. A copy of the magistrate judge consent form is attached as Exhibit B.

Movant J. Doe previously served you with a copy of their magistrate judge consent form and the Notice of Assignment of the case to a magistrate judge on January 12, 2023. A copy of that correspondence is attached as Exhibit C.

>   Sincerely,
>
>   Mukund Rathi
>
>   *Counsel for J. Doe*

Enc.

Cc: Julia Rieper (jrieper@cloudflare.com)
Counsel for Cloudflare, Inc.

EXHIBIT A

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

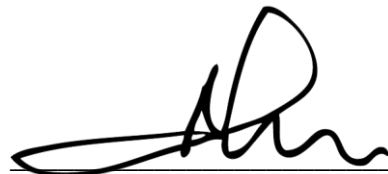|	
IN RE SUBPOENA TO CLOUDFLARE, INC.	Case No. 23-mc-80005-AGT **ORDER RE: MOTION TO QUASH** Re: Dkt. No. 1

If Daniel D'Ambly intends to oppose J. Doe's motion to quash D'Ambly's subpoena to Cloudflare, Inc., D'Ambly must file an opposition by February 6, 2023.

The undersigned cannot resolve Doe's motion to quash unless the movant and respondent both consent to magistrate jurisdiction. *See CPC Pat. Techs. Pty Ltd. v. Apple, Inc.*, 34 F.4th 801, 808 (9th Cir. 2022). Doe has consented, but D'Ambly has not. If D'Ambly wishes to consent, he must file a consent form and check the box next to "CONSENT to Magistrate Judge Jurisdiction," by February 6, 2023. If D'Ambly doesn't file a consent form by February 6, or if D'Ambly files a consent form and checks the box next to "DECLINE Magistrate Judge Jurisdiction," the Clerk of the Court will reassign Doe's motion to a district judge for further proceedings.

By January 25, 2023, Doe must serve D'Ambly with a copy of this order and with a consent form, by any means reasonably calculated to provide actual notice, and file proof of service.

IT IS SO ORDERED.

Dated: January 23, 2023

Alex G. Tse
United States Magistrate Judge

EXHIBIT B

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT OF CASE
TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL

Pursuant to General Order 44, the Assignment Plan of the United States District Court for the Northern District of California, this case has been randomly assigned to a Magistrate Judge.

Pursuant to 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may conduct all proceedings in a case, including all pretrial and trial proceedings, entry of judgment and post-trial motions. Appeal will be directly to the United States Court of Appeals for the Ninth Circuit.

Attached is a form to complete to indicate whether you consent to proceed before the assigned magistrate judge or decline to proceed before the assigned magistrate judge. This form is also available from the Court's website: cand.uscourts.gov/civilforms. You are free to withhold consent without adverse consequences. If any party declines, the case will be reassigned to a district judge.

If you are the plaintiff or removing party in this case, you must file your consent/declination form within 14 days of receipt of this notice. Each other party must file its consent/declination form within 14 days of appearing in the case.

The plaintiff or removing party must serve a copy of this notice upon all other parties to this action.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Plaintiff(s) v. Defendant(s).	Case No. C CONSENT OR DECLINATION TO MAGISTRATE JUDGE JURISDICTION

INSTRUCTIONS: Please indicate below by checking **one** of the two boxes whether you (if you are the party) or the party you represent (if you are an attorney in the case) choose(s) to consent or decline magistrate judge jurisdiction in this matter. Sign this form below your selection.

☐ **Consent to Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

OR

☐ **Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case and I hereby request that this case be reassigned to a United States district judge.

DATE: _____   NAME: _____

COUNSEL FOR
(OR "PRO SE"): _____

_____
Signature

EXHIBIT C

Monday, January 23, 2023 at 13:55:57 Pacific Standard Time

Subject:	In Re Subpoena to Cloudflare; Case No. 3:23-mc-80005 (NDCA)
Date:	Thursday, January 12, 2023 at 12:23:06 PM Pacific Standard Time
From:	Victoria Python
To:	Patrick Trainor, Esq., jrieper@cloudflare.com
CC:	Mukund Rathi, Aaron Mackey, Cindy Cohn, Corynne McSherry
Attachments:	23-mc-80005-AGT_Doe Notice of consent to MJ.pdf, Notice_of_MJ_Assignment_Election_Form.pdf

Dear Counsel,

With regard to the matter referenced above, please find attached service copy of consent to magistrate judge. Also attached is Notice of Assignment of Case to a United States Magistrate Judge for Trial.

Thank you,

Victoria Python
Legal Secretary
Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109
(415) 436-9333, ext. 105

Reset Form

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE SUBPOENA TO CLOUDFLARE

Case No.

CONSENT OR DECLINATION
TO MAGISTRATE JUDGE
JURISDICTION

INSTRUCTIONS: Please indicate below by checking **one** of the two boxes whether you (if you are the party) or the party you represent (if you are an attorney in the case) choose(s) to consent or decline magistrate judge jurisdiction in this matter. Sign this form below your selection.

☑ **Consent to Magistrate Judge Jurisdiction**

     In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

     OR

☐ **Decline Magistrate Judge Jurisdiction**

     In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case and I hereby request that this case be reassigned to a United States district judge.

DATE: January 12, 2023

NAME: Mukund Rathi

COUNSEL FOR (OR "PRO SE"): J. Doe

/s/ Mukund Rathi

Signature

United States District Court
Northern District of California

1

2

3

CERTIFICATE OF SERVICE

I, Victoria Python, declare as follows:

I am over the age of 18 years and not a party to the within action. I am employed in the County of San Francisco, State of California. My business address is 815 Eddy Street, San Francisco, California 94109. I am employed in the office of a member of the bar of this court at whose direction the service was made.

On January 12, 2023, I caused the following documents to be served by email and U.S. Mail on the parties listed below:

CONSENT OR DECLINATION TO MAGISTRATE JUDGE

NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL

Patrick Trainor Law Office of Patrick Trainor, Esq., LLC 19 Union Avenue, Ste 201 Rutherford, NJ 07070 Phone: (201) 777-3327 Email: pt@ptesq.com *Counsel to Plaintiffs in D'Ambly v. Exoo*	Julia Rieper Cloudflare 1401 K Street, NW Washington, DC 20005-3418 Phone: (202) 860-9053 Email: jrieper@cloudflare.com *Counsel to Cloudflare*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on January 12, 2023

Victoria Python
Victoria Python

1
CERTIFICATE OF SERVICE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT OF CASE
TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL

Pursuant to General Order 44, the Assignment Plan of the United States District Court for the Northern District of California, this case has been randomly assigned to a Magistrate Judge.

Pursuant to 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may conduct all proceedings in a case, including all pretrial and trial proceedings, entry of judgment and post-trial motions. Appeal will be directly to the United States Court of Appeals for the Ninth Circuit.

Attached is a form to complete to indicate whether you consent to proceed before the assigned magistrate judge or decline to proceed before the assigned magistrate judge. This form is also available from the Court's website: cand.uscourts.gov/civilforms. You are free to withhold consent without adverse consequences. If any party declines, the case will be reassigned to a district judge.

If you are the plaintiff or removing party in this case, you must file your consent/declination form within 14 days of receipt of this notice. Each other party must file its consent/declination form within 14 days of appearing in the case.

The plaintiff or removing party must serve a copy of this notice upon all other parties to this action.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Plaintiff(s)	Case No. C
v.	CONSENT OR DECLINATION TO MAGISTRATE JUDGE JURISDICTION
Defendant(s).	

INSTRUCTIONS: Please indicate below by checking **one** of the two boxes whether you (if you are the party) or the party you represent (if you are an attorney in the case) choose(s) to consent or decline magistrate judge jurisdiction in this matter. Sign this form below your selection.

☐ **Consent to Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

OR

☐ **Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case and I hereby request that this case be reassigned to a United States district judge.

DATE: _____   NAME: _____

COUNSEL FOR
(OR "PRO SE"): _____

_____
Signature

United States District Court
Northern District of California